



EMPLOYER INSIGHTS

COVID-19



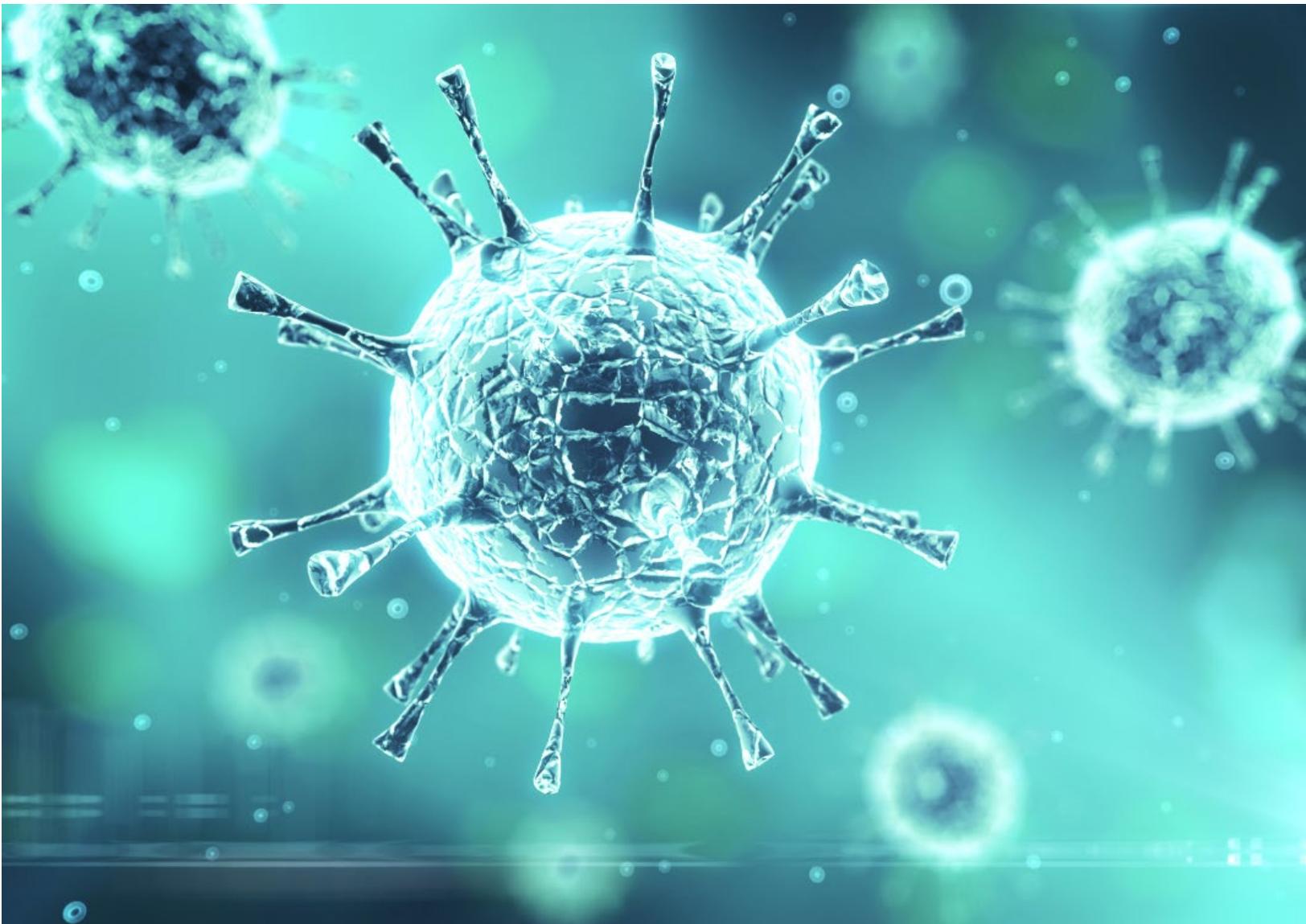
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Introduction

At AssuredPartners, we recognize that COVID-19 is a top-of-mind issue for our clients. From considerations about business operations and employee impact to personal insurance coverage issues, the number of virus-related questions continues to grow.

We are here to help.

We offer this guide as a resource to help our clients identify and prepare for a number of issues raised by COVID-19. We recognize that, due to the fluidity of this situation, it will not be comprehensive or represent the final word on any specific insurance coverage issue. Even still, these materials should help raise awareness about the insurance-related implications of COVID-19. For specific insurance-related questions, please contact your AssuredPartners representative.





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Helpful Resources

In times like these, reliable information is essential.

The [World Health Organization](#) and the [Centers for Disease Control and Prevention](#) are providing regular information and guidance on COVID-19. We recommend monitoring the WHO and CDC websites for the latest information, updates and guidance.

State and local health authorities are another vital information resource. For example, the [California Department of Health](#) is providing daily updates on COVID-19, and the [Pennsylvania Department of Health](#) is also providing regular updates, including regarding the number of infected persons within the state. The other states also offer similar public resources on their respective websites. If the virus continues to spread, state and local information and guidance will become even more important – and will likely vary depending on the number of COVID-19 infections in a specific area – and should be followed closely.

Insurance Implications

Property & Business Interruption Insurance

Many businesses will face economic impact from COVID-19. The resulting impact will likely raise questions about property and business interruption insurance. Questions have already emerged about the potential costs of sanitizing and testing property in the event of a COVID-19 impact (in a corporate office setting, for example) and about the possibility of contingent business interruption coverage due to the COVID-19-related shutdown of a supplier.

Answers to policy-specific questions will always depend on the terms and conditions of an individual policy and on the specific facts underlying the potential claim. But a few key questions can help guide a general analysis of potential coverage:

Does the policy contain a virus-specific exclusion? Most policies expressly exclude losses resulting from viruses generally; others identify specific virus exclusions by name. As global health issues arise from time to time, insurance policies have evolved to often exclude losses from such events. As a result, an analysis of any policy-specific exclusions will be key to evaluating potential coverage in this area.

Did a direct physical loss occur? In property policies, coverage generally requires direct physical loss to insured property by a covered peril. Additionally, business interruption coverage requires that the interruption itself result from the direct physical loss to the insured property by a covered peril. Does a business suffer a direct physical loss if it shuts down for a time because a person living nearby contracted COVID-19? Does the answer depend on whether the property itself was contaminated? Time will tell how carriers and courts answer these questions and require or interpret “physical loss” in the context of COVID-19. Legislatures may weigh in as well.

We should expect carriers to take the position of no physical loss, however, insureds should consider gathering and maintaining relevant documentation.

Event Cancellation

Some businesses have cancelled scheduled events due to COVID-19. These cancellations raise questions under event cancellation insurance policies, which may offer protection for losses resulting from payment of contractual guarantees and other expenses flowing from a cancelled event. Helpful questions to ask in this context include:

- *How does the policy define a “covered event”?* Some event cancellation policies may cover accidents, travel delay or certain weather events. In some instances, however, policies expressly exclude cancellations caused by viruses or diseases. If an event cancellation occurs, insureds should consider retaining records confirming the cancellation and documenting related costs for use in evaluating a potential claim.
- *Does the policy include a duty to mitigate damages in the event of a cancellation?* If so, efforts may be required to reschedule an event where possible. Reasonable efforts to mitigate damages will vary by circumstance and any records showing efforts to mitigate should be preserved.

Workers’ Compensation

Many businesses are wondering: what happens if an employee contracts COVID-19? Is the employee covered by workers’ compensation? State laws vary but, generally speaking, an employee must become injured or sick in the course and scope of employment to qualify for workers’ compensation benefits.

Further, the typical standard holds that, for coverage to apply with respect to an occupational disease, an employee must have been at greater risk for the condition than the general public.

Determining whether an employee contracted COVID-19 in the course of his or her employment, and whether he or she was at a greater risk for the condition than the general public, will require a fact-specific analysis. Among other things, this will require consideration of the nature of the work performed by the employee. Coverage may be more likely for an employee working in a healthcare setting in which he or she was required to care for COVID-19 patients, and potentially less likely for an employee working in an office setting with no engagement with the public. We should expect it to take some time before we get a specific determination of a covered occupational sickness, especially because each state governs its own workers’ compensation board and statutes.

Workers' compensation is usually an employee's exclusive remedy for a workplace injury, but an exception exists in many states for intentional torts – such as intentional exposure to a known hazardous condition. If an employee of a business contracts COVID-19, the business should operate carefully. First, it should follow the guidance of proper authorities in dealing with the infected employee (including following any quarantine guidance). Second, it should develop a plan, again under the guidance of the proper authorities, for any other employees who may have been exposed to the virus. In taking care of employees in this manner, a business may also guard against potential claims that it intentionally exposed employees to COVID-19.



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Consideration for Employers

COVID-19 raises a number of employment-related issues, both legal and operational. We have included here resources from two well-respected national employment law firms ([Ogletree Deakins](#) and [Fisher Phillips](#)) who have prepared extensive resources in a FAQ format. Among other things, the materials provide guidance on handling employees with symptoms of COVID-19, remote work policies and wage and hour issues.

Reminder About the Basics

Many of the best defenses against COVID-19 are very basic. Remember to wash your hands often with soap and water for 20 seconds; avoid touching your eyes, nose and mouth; avoid close contact with people who are sick; stay home when you are sick. News reports and communications from the authorities increasingly focus on the potential benefits of “social distancing” – a public health protection measure focused on limiting interactions with large crowds at events, work, or school. For the protection of our healthcare system and workers, as well as the most vulnerable among us, these seemingly small, basic defenses can make a big difference.

Legal notice: We hope this guide was informative and helpful. But, to be clear, nothing here is intended or should be construed to serve as medical, legal or other professional advice. This guide is also not a comprehensive analysis of any particular insurance policy or set of risk circumstances. This document has been provided solely as an informational resource for clients and business partners of AssuredPartners. We strongly encourage all readers to seek independent legal and medical advice as and when appropriate. In responding to insurance coverage questions, whether coverage applies, or a policy will respond, to any risk or circumstance is subject to the specific terms and conditions of the applicable contracts and policies, along with determinations made by underwriters that are outside of AssuredPartners' influence or control.

About AssuredPartners

Headquartered in Lake Mary, Florida and led by Jim Henderson and Tom Riley, AssuredPartners, Inc. acquires and invests in insurance brokerage businesses (property and casualty, employee benefits, surety and MGU's) across the United States and in London. From its founding in March of 2011, AssuredPartners has grown to over \$1.5 billion in annualized revenue and continues to be one of the fastest growing insurance brokerage firms in the United States with over 185 offices in 30 states and London. For more information, please visit www.assuredpartners.com.

